

Testimony of

The Honorable Dr. James I. Finley

**Deputy Under Secretary of Defense
(Acquisition and Technology)
U.S. Department of Defense**



**Hearing of the
U.S. House Committee on Small Business**

on

Small Business Contracting Opportunities After Hurricane Katrina

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**The Department of Defense
Small Business Contracting Opportunities After Hurricane Katrina
Follow-up to New Orleans Field Hearing**

**The Honorable Dr. James I. Finley
Deputy Under Secretary of Defense
(Acquisition and Technology)**

Chairwoman Velázquez, Ranking Member Chabot and Members of the House
Committee on Small Business:

Thank you for inviting me to appear before you today for a follow-up discussion of Department of Defense (DoD) contracting activities with small businesses residing in the areas devastated by Hurricane Katrina. Katrina was a catastrophe of unprecedented proportions. This is a matter of importance to all of us and I welcome the opportunity to participate in this hearing.

Today I will focus on the DoD's continuing efforts in post Katrina Local Small Business performance. I also plan to discuss the steps taken to improve DoD emergency acquisition policy, and improvements to DoD's overall small business policy.

POST KATRINA, LOCAL SMALL BUSINESS PERFORMANCE

Based on data from the Federal Procurement Data System - Next Generation (FPDS-NG), since the end of August, 2005, approximately \$43.5 billion has been awarded to fulfill DoD requirements in the states of Alabama, Louisiana, and Mississippi. This figure includes work done in support of Katrina relief and recovery and other DoD efforts. Of the \$43.5 billion, \$25.9 billion, or 60%, was awarded to contractors residing and performing in the states of Alabama, Louisiana, and Mississippi. \$7.4 billion, or 28.6% of the \$25.9 billion, was awarded to local small business.

In addition to the DoD's Army Corps of Engineers (USACE) awards for local small business, identified subsequent to the April 12, 2007, hearing held by the House Small Business Committee in New Orleans, the DoD's Procurement Technical Assistance Center (PTAC) in Louisiana helped procure the awards of nine contracts to six local small business companies. Those six companies and associated awards, totaling approximately \$4.8 million, are summarized as follows:

- Assaf, Simoneaux, Tauzin & Associates
- IMC Consulting Engineers
- Northshore Office Equipment
- QRI
- SEMS, Inc

- Diversified Building & Construction Contractors

PTACs are a very effective means of reaching out to the local small business community. PTACs provide training, counseling, and other specialized and professional assistance to small businesses seeking to learn about contracting and subcontracting opportunities with DoD, other Federal agencies and state and local governments.

PTAC success stories are far ranging with companies. In Louisiana, in particular, Southern Services and Equipment, Inc., Deep South Communications, Home Park Maintenance LLC, Optinet Resources LLC, Smith Research Corporation, DQSI and RAI Services, Inc are all examples of a diverse set of companies where the hard work and dedication of PTACs provided the achievement of local small business participation.

IMPROVING DoD EMERGENCY ACQUISITION POLICY

The Emergency Procurement Committee, chaired by the Defense Procurement and Acquisition Policy (DPAP) within the Office of the Secretary of Defense (OSD), Acquisition, Technology and Logistics, continues to meet on a weekly basis. Outcomes from these meetings have continued to identify initiatives summarized as follows:

- Creating a Joint Contingency Contracting Working Group to develop a DoD Contingency Contracting Guide which will be incorporated into DFARS Part 18. This draft guide is currently being reviewed by the Emergency Procurement Committee.
- Creating a quick-reference, pocket-sized handbook for contingency contracting officers in the field. The handbook will provide electronic links to the FAR, various contracting tools/templates, useful websites, as well as links to standardized contingency training. The product is in draft and currently in review.
- Establishing a Joint Contingency Contracting Community of Practice to promote knowledge sharing across organizational boundaries. This collaborative tool serves as a central repository for DoD contingency contracting learning and job support assets to include policy and guidance information, after action reports, pre-deployment information and related knowledge to promote increased job performance. The website is constantly being updated with new information, such as the new Office of Federal Procurement Policy Emergency Acquisition Guide.
- Utilizing DoD auditors to support on-going contract negotiations and contract billings to identify areas requiring improvement.

- Creating a Joint Contracting-Contractor Management Working Group to develop joint doctrine to ensure our contingency contracting troops have clear and unambiguous guidance in the field and to address joint policy on contingency contracting directed by the FY07 NDAA. The Joint Publication 4-10 is currently in review.
- Developing a competency model for the DoD contracting community that includes modules for contingency contracting and small business.
- Establishing a web-based Community of Practice at the Defense Acquisition University website.

IMPROVING THE OVERALL DoD SMALL BUSINESS POLICY

In addition to the initiatives for emergency acquisition policy, outlined above, the DoD has implemented the following practices for policy implementation to ensure maximum contracting opportunity for small business:

- **Mitigating the effects of contract bundling** - Any acquisition strategy that contemplates bundling must undergo an extremely rigorous justification and approval process prior to the action being taken. Only when the Department has determined it will derive a measurable and substantial benefit can this type of acquisition strategy be used. If small business prime contracting opportunities are not available, DoD acquisition professionals are obliged to develop strategies that set aggressive small business subcontracting goals, including methods for ensuring that the goals are achieved.
- **Improving data accuracy** – As the Chairwoman of this committee emphasized at the last hearing, we must have accurate data in order to properly manage our small business efforts. In May of 2007 the Under Secretary of Defense for Acquisition, Technology, and Logistics issued a memorandum to the Director of the Office of Management and Budget, affirming the Department's commitment to the establishment of infrastructure, policies and processes to ensure continuous improvement of data quality. The DoD Office of Small Business Programs (OSBP) is working within the Department and with other Federal agencies to ensure data systems are programmed with built-in edits that will, to the degree possible, prevent the most common miscoding error.
- **Educating the acquisition workforce** – DoD has established a small business training program as a joint initiative between the DoD Office of Small Business Programs and the Defense Acquisition University. We plan to continue an aggressive training program. We are also in the final stages of revising this

Guidebook and will post it online soon. Additionally, OSBP is developing a Teaming/Joint Venture Guidebook as well as training to assist small businesses in pursuing larger procurements. This Guidebook and training will be available by the end of the year.

- **Subcontracting** – We are also in agreement with the recommendations made in the Government Accountability Office (GAO) report number GAO-07-205 to 1) issue guidance reinforcing the importance of the subcontracting plan requirements; and 2) ask the Department of Defense Inspector General to conduct a review at the appropriate future date to ensure the subcontracting plan guidance is being followed. Corrective actions identified by the GAO report have already been implemented.
- **Ensuring the availability of subcontracting opportunities** – It is the responsibility of both DoD contracting officers and small business specialists to ensure prime contractors' put forth their best efforts to achieve the small business goals established in their subcontracting plans. These goals are intended to challenge prime contractors to provide the maximum practical subcontracting opportunities to all small businesses. Here too, DoD recognizes the need for accurate data reporting and therefore strongly supports the implementation of the Electronic Subcontracting Reporting System on a DoD-wide basis.

When a contractor fails to make a good faith effort to achieve its subcontracting goals, contracting officials will note this information in the contractor's official past performance record. Past performance information is maintained in the Government-wide Past Performance Information Retrieval System (PPIRS). PPIRS is used by DoD contracting officers to make required contractor responsibility assessments. DoD contracting officers must evaluate the extent of participation of small businesses in all negotiated procurements that are required to have a subcontracting plan.

- **Payments to Small Businesses** – It is the policy of DoD to assist small business concerns in obtaining payments under their [prime] contracts, late payment, interest penalties, or information on contractual payment provisions. DoD has made great strides to eliminate payment delays by deploying the Wide Area Work Flow – Receipts and Acceptance (WAWF-RA) electronic invoicing system. Approximately 54.8% of DoD's invoices are now processed under WAWF and the number of users grows daily. Pursuant with GAO's recommendation, WAWF will soon be updated to include a small business indicator flag to alert DoD payment officials when an invoice is from a small business and to process the invoice as expeditiously as possible.

It is also DoD policy to ensure that prime contractors establish procedures for the

timely payment of amounts due pursuant to the terms of their subcontract(s). A DoD contracting officer must investigate if they determine a prime contractor's certification of payment is inaccurate in any material respect, the Department must investigate the matter. Depending on the contract type and its nearness to completion, contracting officers will encourage the prime contractor to make timely payments to the subcontractor or, the contracting officer may reduce or suspend progress payments until the contractor complies. Failure of prime contractors to pay their subcontractors in a timely manner is negative past performance information that is reported into PPIRS.

In summary, we, at the Department of Defense, are very committed to the health and welfare of our people and our nation. We have a strong small business program with strong performing organizations such as the United States Army Corps of Engineers as well as support organizations such as the Procurement Technical Assistance Centers. We are planning to continue to build on those strengths to provide more agility and flexibility for the acquisition of products and services to protect our country and provide emergency help in the time of need for natural disasters, here on the home front or abroad when called upon.

I thank the committee for their time today, and their leadership in addressing the small business participation in the aftermath of Hurricane Katrina. I will be happy to answer your questions.

Thank you.